APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 16772

HARRISBURG DAILY MARKET, INC., *Petitioner*

v.

ORVILLE L. FREEMAN, Secretary of Agriculture, and UNITED STATES OF AMERICA, *Respondents*

On Petition To Review An Order Of The Secretary of Agriculture

Decided October 4, 1962

Messrs. Charles O. Pratt and *Russell M. King* for petitioner.

Mr. Neil Brooks, Assistant General Counsel, Department of Agriculture, with whom *Mr. William H. Orrick, Jr.*, Assistant Attorney General at the time brief was filed, and *Mr. Alan S. Rosenthal*, Attorney, Department of Justice, were on the brief, for respondents.

Before EDGERTON, FAHY and BURGER, *Circuit Judges*.

PER CURIAM: Harrisburg Daily Market, Inc., seeks to review under 64 Stat. 1129 (1950), 5 U.S.C. § 1031 *et seq.*, a decision and order of the Secretary of Agriculture acting under the Perishable Agricultural Commodities Act, 46 Stat. 531 (1930), as amended, 70 Stat. 726 (1956), 7 U.S.C. § 499b (5) (1958). After proceedings which revealed repeated violations, the Secretary suspended for ten days the

petitioner's license as a dealer and broker in perishable agricultural commodities. The statute authorizes license suspension up to 90 days for violations involving misrepresentation of kind, quality or other specified conditions of any perishable agricultural commodity and the hearing examiner recommended a 21 day suspension. The Perishable Agricultural Commodities Act, 1930, required proof of fraudulent purpose as an element of the misrpresentation violations. 46 Stat. 533 (1930). To achieve stricter enforcement as the legislative history discloses, the act was amended in 1956 to eliminate the need to show the existence of fraudulent purpose. 70 Stat. 726 (1956), 7 U.S.C. § 499b (5) (1958). See H.R. REP. No. 1196, 84th Cong., 1st Sess., 3-4; S. REP. No. 2507, 84th Cong., 2d Sess., 4, 6. See also, *Goodman* v. *Benson*, 286 F.2d 896 (7th Cir. 1961); *Eastern Produce Co.* v. *Benson*, 278 F.2d 606 (3d Cir. 1960).

Our examination of the record satisfies us that there is substantial evidence in the record to sustain the Secretary's findings. We also hold that petitioner's contention of procedural errors which render the suspended order invalid is without merit.

Affirmed.